

MOST ASKED QUESTIONS ABOUT MEDICAL CONSULTANTS



Central Complaint Unit

Medical Board of California

*the state agency that
licenses medical doctors,
investigates complaints,
and disciplines those
who violate the law*

Your complaint has been referred to a Board medical consultant.

■ **WHAT IS A MEDICAL CONSULTANT?**

Medical consultants are licensed physicians in good standing who are in practice or employed in the field of medicine in the community. They provide their services to the Board on a part-time contract basis to review quality of care complaints.

■ **WHAT IS THE MEDICAL CONSULTANT'S ROLE?**

The medical consultant's role is to determine whether the care and treatment provided was within the "standard of practice." The medical consultant may not address every question/concern that you have; however, the overall care and treatment will be thoroughly reviewed.

■ **HOW LONG IS THE REVIEW PROCESS?**

Normally, the required time for reviewing your complaint may range between four and six weeks. However, if additional information is requested by the medical consultant, the process could take longer.

■ **WILL I HAVE AN OPPORTUNITY TO DISCUSS MY COMPLAINT WITH THE MEDICAL CONSULTANT?**

No. Due to the high volume of complaints reviewed by the medical consultants, it is not feasible for a medical consultant to discuss your complaint on an individual basis.

■ **IS IT A CONFLICT OF INTEREST TO HAVE A MEDICAL CONSULTANT REVIEW OTHER PHYSICIANS' DIAGNOSES AND TREATMENT?**

No. In order to evaluate whether the treatment provided by a physician was appropriate, another physician must be consulted. The medical consultant provides an informed, objective opinion about the "standard of practice" and explains why the treatment was appropriate or inappropriate.

■ **WHAT TYPE OF COMPLAINTS DO MEDICAL CONSULTANTS REVIEW?**

They may be asked to review issues such as:

- Diagnosis and treatment
- Excessive or illegal prescribing
- Dishonesty (fraudulent claims or excessive treatment)
- Inappropriate examinations

■ **WHAT ARE MEDICAL CONSULTANTS LOOKING FOR WHEN REVIEWING COMPLAINTS?**

By reviewing and evaluating complaints and copies of patients' medical records, the medical consultants, drawing upon their expertise in the field of medicine, can determine whether there is any evidence that might substantiate a complaint of:

- **Gross negligence** (an *extreme* departure from the standard of practice): physicians failing to do basic diagnostic tests, not recognizing or acting on common symptoms, not using accepted effective treatments or diagnostic

procedures, using outdated procedures, not referring a patient to a specialist when appropriate.

- **Negligence** (*a simple departure from the standard of practice*): negligent acts that are not an extreme departure.

One act of simple negligence usually is not enough to take formal action against a doctor's license. However, patterns of repeated negligent acts may be sufficient grounds in some cases.

- **Incompetence** (*a lack of knowledge or ability in discharging professional medical obligations*): a physician who is unable to recognize and act appropriately on symptoms would be considered incompetent.

■ **AM I ENTITLED TO COPIES OF MY MEDICAL RECORDS FROM THE MEDICAL BOARD?**

You may request copies of your medical records by submitting a written request to your doctor.

Pursuant to Government Code Section 6254(f), Medical Board of California records pertaining to complaints and investigation are exempt from public disclosure. Therefore, a copy of the medical consultant's report will not be available to the complainant.

By law, all records that are part of the Board's investigation become the property of the Board and cannot be released to anyone.

■ **WHAT HAPPENS AS A RESULT OF THE MEDICAL CONSULTANT'S REVIEW?**

- If no violation of the Medical Practice Act has been confirmed, the case will be closed and maintained on file for one year.
- If a violation is found but does not constitute grounds for disciplinary or administrative action against the physician's license, the case is closed and maintained on file for five years.
- If the medical consultant determines the information/medical records provide evidence of possible gross negligence and/or evidence of significant violation of the Medical Practice Act, the complaint will be forwarded to one of the Board's District Offices for further investigation. A second review by a physician expert will be conducted at that time.
- In all of the above situations, you will be notified, usually by letter, of the medical consultant's finding and the outcome.

California Law imposes a very high burden of proof upon the Medical Board by requiring that we establish "clear and convincing evidence to a reasonable certainty" that a violation of the law occurred before administrative action can be taken. This is a much higher standard than for civil litigation cases.

MEDICAL BOARD OF CALIFORNIA

Central Complaint Unit
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■ **To discuss your complaint, call:**

1-800-633-2322
or 916-263-2424
Fax: (916) 263-2435
TDD: (916) 263-0935

■ **To check on a specific doctor, call our Consumer Information Unit:**

916-263-2382

■ **Or visit our Web site:**

www.medbd.ca.gov

The mission of the Medical Board of California is to protect healthcare consumers through the proper licensing and regulation of physicians and surgeons and certain allied healthcare professions and through the vigorous, objective enforcement of the Medical Practice Act.